

- in order to recover his property, he is therefore utterly without remedy for the maintenance of himself and family during the continuance of his insanity.

This however is not altogether correct. A right of property necessarily implies, that its owner has a remedy for the recovery of it ; and also, that he is invested with the means of protection in the enjoyment of such property as the law allows him to dispose of without any other limit than that in doing so he shall not injure his fellow citizen. But if the owner has a wife and children he is bound to maintain them, at least so far as his property affords him the means. This maxim applies only to the *contracts* of the lunatic ; it does not prevent him from vindicating his right to his property by an action of ejectment, trespass, trover, &c.(t) nor does it release him from any obligation, which his property will enable him to discharge. Now it is in execution of this his own right, and in fulfilment of this his duty to his family, that the Court of Chancery has always acted, in taking care of persons who are *non compos mentis*, and their estates. For the court is bound, in behalf of the State, to keep the lunatic, his wife, children and household with the profits of his lands and estate, and to apply the whole to their use ; although he recovers not his memory, but continues *non compos mentis*.(u)

But we are told, that although the lunatic himself may be fettered by this maxim, yet there is a mode in which he may obtain redress ; and that his heirs and personal representatives are not bound by this maxim. A commission of lunacy may be taken out, he may be declared a lunatic, and a committee appointed to take charge of his person and estate ; and such committee may sue and have any deed, made by the lunatic, during his insanity, vacated for his benefit. But why this circuitry ? The issue joined between the committee of the lunatic and his grantee must be exactly the same, and it must be met by precisely the same proof as if the lunatic himself had been the party. But even this circuitous mode of redress, is often lame, tardy, or wholly inefficient. It is, however, better than none at all.

But if a lunatic, in the condition of having been defrauded of his property, should recover his reason, then there is an end even of this circuitous remedy. He is discharged from the government and protection of his committee, and left to regain his property as